

REMARKS

This paper is presented in response to the Office Action. By this paper, claims 1, 6, 11, 20, 38, 40, 45, and 49-53 are amended, and claim 5 is canceled. Claims 33, 34, and 39 were previously canceled. Claims 1-32, 35-38, and 40-62 are pending in view of the aforementioned amendments.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. Claim Objections

In the Office Action, claims 49-53 were objected to because the claims were dependent upon themselves. Claims 49-53 have been amended herein to indicate the correct dependence for each of the claims. In light of the amendments to claims 49-53, Applicant respectfully request withdrawal of this objection.

Claims 40-41 were objected to because they were dependent on canceled claim 39. Claim 40 has been amended to correctly indicate its dependence on claim 38. Therefore, claims 40 and 41 (through its dependence on claim 40) are no longer dependent on canceled claim 39. Thus, Applicant respectfully request that the objection to claims 40-41 be withdrawn.

II. Rejection of Claims 1-4, 11-17, 38, 42, and 44 under 35 U.S.C. § 102

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP* § 2131.

The Office Action rejected claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,113,552 to Fontenot ("Fontenot"). Applicant respectfully disagrees.

Fontenot fails to disclose the cable and pulley system of claim 1.

As amended herein, claim 1 requires an exercise machine, comprising: a support frame having a support base configured to provide stability to the exercise machine in order to provide a stable exercise environment; a single resilient elongate rod linked to the support frame, the resilient elongate rod configured to provide resistance for use in exercise; and a variable resistance system linked to the single resilient elongate rod, the variable resistance system being configured to vary a mechanical advantage usable to flex the resilient elongate rod to vary the amount of resistance presented by the resilient elongate rod for use in exercise, the variable resistance system comprising a cable and pulley system. The variable resistance system of claim 1 requires the inclusion of a cable and pulley system.

An embodiment of the variable resistance system recited in amended claim 1 is illustrated Applicants' Figure 5, in which arrow 340 shows an example of a cable and pulley system. Fontenot does not teach or suggest a variable resistance system comprising a cable and pulley system.

The disclosure of Fontenot explicitly states that one of the objects of that invention was to "provide an exercise apparatus which does not rely on weights, *pulleys*, and stretchable members." (Col. 4, lines 5-7)(emphasis added). Further, the exercise apparatus of *Fontenot* "does not rely on heavy weights, *cables* or elastic bands." (Col. 4, lines 21-22)(emphasis added). As noted above, an element of amended independent claim is "a variable resistance system comprising a cable and pulley system." Since Fontenot neither teaches nor suggests "a variable resistance system comprising a cable and pulley system," and, as identified above, expressly teaches away from the inclusion of "a cable and pulley system," Applicants respectfully submit that Fontenot neither teaches nor suggests the invention claimed in independent claim 1 and corresponding dependent claims 2-4.

The Office Action also rejected claims 11-17, 38, 42, 44 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,022,377 to Stevens ("Stevens"). Applicant respectfully disagrees.

Stevens fails to disclose the support base of claims 11-17.

As amended herein, claim 11 requires, among other things, "a support frame having a support base configured to provide stability to the exercise machine in order to provide a stable

exercise environment." The support base of the present invention is illustrated in Applicants' Figure 2 and identified with reference number 16.

Applicants respectfully submit that Stevens neither teaches nor suggests an exercise machine with "a support frame having a support base configured to provide stability to the exercise machine in order to provide a stable exercise environment." In contrast to the claimed invention, Stevens discloses, as illustrated in Figures 1 and 4, a first elongate member 12, a second elongate member 22 extending therethrough, and a first handle that facilitates movement of second elongate member 22 with respect to first elongate member 12. Stevens further discloses other structural elements such as rod-like structures 30, U-shaped structure 38, sleeve member 46, second handle 50, and hook member 52 for engaging a compound-type bow. Because Stevens fails to teach or suggest the invention of amended independent claim 11, including a support frame having a support base configured to provide stability to the exercise machine in order to provide a stable exercise environment, Applicants respectfully submit that Stevens does not disclose or obviate claim 11 and corresponding dependent claims 12-17.

Stevens fails to disclose the seat member of claim 38

Amended claim 38 requires, among other things, a seat member movably connected to the support frame, the seat member being configured to enable a user to rest thereon. An example embodiment of seat member according to the present invention is illustrated in Applicants' Figures 2, 9, and 10 and identified with reference number 62. In contrast, Stevens does not disclose any type of structure "being configured to enable a user to rest thereon." Therefore, because Stevens fails to teach or suggest the seat member of amended claim 38, Steven does not obviate or disclose independent claim 38 or corresponding dependent claims 40-43.

Stevens fails to disclose the support base and variable resistance system of claim 44

Independent claim 44 requires a support frame having a support base configured to provide stability to the exercise machine in order to provide a stable exercise environment; at least one resilient elongate rod linked to the support frame, the resilient elongate rod configured to provide resistance for use in exercise; a cable and pulley system linked to the resilient elongate rod; and a variable resistance system linked to the cable and pulley system to utilize resistance

from the resilient elongate rod to provide a variable amount of resistance for use in exercise. In claim 44, the support frame has a support base configured to provide stability to the exercise machine in order to provide a stable exercise environment. In addition, claim 44 includes a variable resistance system linked to the cable and pulley system to utilize resistance from the resilient elongate rod to provide a variable amount of resistance for use in exercise.

As discussed above with respect to claim 11, Stevens does not teach or suggest a support base configured to provide stability to the exercise machine in order to provide a stable exercise environment. In addition, Stevens does not teach or suggest a variable resistance system linked to the cable and pulley system. Although Stevens does disclose a "bow string 68, tension cable 70, [and] wheels 74," it does not disclose any kind of "variable resistance system" linked to a "cable and pulley system." Because Stevens does not teach or suggest a support base or a variable resistance system it does not disclose or obviate claim 44.

III. Rejection of Claims 20-31, 45-47, and 54-62 under 35 U.S.C. § 103

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP § 2143*.

The Examiner has rejected claims 20-31, 45-47, and 54-62 under 35 U.S.C. § 103(a) as being unpatentable over Fontenot in view of U.S. Patent No. 5,254,066 to Brown ("Brown"). Applicant respectfully disagrees and submits that for at least the reasons set forth below, the rejection has been overcome and should be withdrawn.

Fontenot in view of Brown fails to disclose the variable resistance system of claim 20

As amended herein, claim 20 requires, among other things, a variable resistance system linked to the resilient elongate rod, the variable resistance system comprising: a cable and pulley system, and an automatic resistance adjustment mechanism linked to the cable and pulley

system, the automatic resistance adjustment mechanism having a lead screw and a lead screw motor assembly. This dynamic of the present invention can be seen in Applicants' Figures 5-7D, in which arrow 30 identifies the variable resistance system, arrow 300 identifies the automatic resistance adjustment mechanism, arrow 340 identifies the cable and pulley system, 310 identifies the lead screw motor assembly, and reference number 312 identifies the lead screw.

Although Fontenot discloses a "cylinder which may be adjusted to control the amount of resistance" desired by the user (Fontenot, Col. 6, lines 61-63) and Brown discloses "computer controlled movement of the piston rod" (Brown, Col. 6, line 10), neither Fontenot nor Brown disclose the structures as claimed in amended claim 20. Specifically, neither Fontenot nor Brown, either alone or in combination with each other, teach or suggest a variable resistance system linked to the resilient elongate rod, the variable resistance system comprising: a cable and pulley system, and an automatic resistance adjustment mechanism linked to the cable and pulley system, the automatic resistance adjustment mechanism having a lead screw and a lead screw motor assembly. Thus, Fontenot in view of Brown does not disclose or obviate amended independent claim 20 and corresponding dependent claims 21-31.

Fontenot in view of Brown fails to disclose the electronic variable resistance system of claim 45

Amended claim 45 requires, among other things, an electronic variable resistance system comprising: an automatic resistance adjustment mechanism having a lead screw, a lead screw motor assembly, a lever arm, and a lever arm regulator, the automatic resistance adjustment mechanism configured to regulate an amount of resistance required to displace the at least one resilient elongate rod. These elements of amended claim 45 are illustrated in Applicants' Figures 5-7D, wherein the lead screw is identified at 312, the lead screw motor assembly is identified at 310, the lever arm is identified at 302, and the lever arm regulator is identified at 304.

As noted above with regard to claim 20, neither Fontenot nor Brown, either alone or in combination, disclose a lead screw and a lead screw motor assembly. Furthermore, neither Fontenot nor Brown, either alone or in combination, discloses a lever arm or a lever arm regulator as in claim 45. Therefore, Fontenot in view of Brown does not disclose or obviate amended independent claim 45 or corresponding dependent claims 46-62.

IV. Allowable Subject Matter

The Office Action indicated that the allowability of claim 40-43 and 45-62 is withdrawn in view of the newly discovered references to Brown and Stevens. However, as discussed above, Stevens does not anticipate independent claim 38, and therefore Stevens does not anticipate corresponding dependent claims 40-43. Similarly, as noted above, Fontenot in view of Brown does not render obvious independent claim 45 and corresponding dependent claims 46-62.

The Office Action further indicated that claims 5-10, 18-19, and 42-43 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As indicated above, independent claim 1 has been amended to include the limitation of dependent claim 5, and claim 5 has been canceled. Accordingly, Applicant submits that claim 1 and corresponding dependent claims 6-10 are in condition for allowance. Further, as discussed above, the rejection of claims 11 and 38, from which claims 18-19 and 42-43 depend, should be withdrawn for at least the reasons discussed above. As a result, claims 18-19 and 42-43 are believed to be in condition for allowance

CONCLUSION

As discussed in detail above, the disclosures of Fontenot, Stevens, and Brown, taken individually or in combination with each other, fail to teach or suggest the elements of the cited claims. Therefore, in view of the above amendments and remarks, Applicants respectfully submit that each of claims 1-4, 6-32, 35-38, and 40-62 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 17th day of August, 2007.

Respectfully submitted,

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